

Response of the Joint University's Research Programme of Fire and Rescue Services.

Consultation:

Enabling closer working between the Emergency Services

1. How do you think this new duty would help drive collaboration between the emergency services?

It will help to drive collaboration between the emergency services in so far as it gives a policy vehicle and 'justification for action, and a clear focus for potential scrutiny of the services and for the internal and external appraisal of sets of priorities and actions being taken in its name.

However, as a recent report to the NAO has indicated, these objectives need operationalising and also require effective scrutiny (both internal and external) if they are to be implemented in an economic, efficient and effective manner. This requires the relevant performance management and public assurance regimes to include, clear and appropriate benchmarks, good practice examples and sanctions for unacceptable performance. However, in summary, as the report for the NAO demonstrates, the public assurance from the current regimes covering the emergency services, including police and FRS have significantly deteriorated over the period 2010-2015 and the risks to the services achieving value for money have significantly risen.

2. Do you agree that the process set out above would provide an appropriate basis to determine whether a Police and Crime Commissioner should take on responsibility for fire and rescue services?

We consider the process set out in the consultation process to be inadequate for the purpose espoused. It is deficient in several key aspects, such as:

The details of the public consultation process and scrutiny of the proposed business case are clearly inadequate for the purpose of making such a potentially significant constitutional change albeit at local democratic levels. In the current proposals' the PCC has merely to consult locally and 'seek views' on whether the transfer should take place. There is no guidance as to who's views are sought – the paper does not even specify the Local Resilience Forum members, the Health and Wellbeing Board members or the Community Safety Partners. The Local Authorities, representatives

of the Business Community or the Insurance Industry may also legitimately seek to have their views heard. There is also currently no provision for the holding of any sort of Public Inquiry or Hearing to test the business case.

A related issue to the one above, is that there is too much influence and discretion currently proposed to be allowed to the PCC e.g. to inform their view they could (not should or must) seek an independent assessment – and they may choose their own. It is questionable whether the Chief Fire and Rescue adviser from DCLG is truly independent. Any independent assessor should be validated or accredited or be taken from a list accredited for the purpose.

The Secretary of State has considerable discretion to take a decision on the basis of this Independent Assessment – and although we accept that the Secretary of State should not be unduly fettered in taking a decision – the decision should be made public and accompanied by reasons – so that it can at least be tested as to its reasonableness and success.

There is currently insufficient guidance on the nature of the proposed business cases. There should therefore be a commitment to further early release of guidance (preferably in draft for consultation). This should cover the appropriateness of content, and the accounting principles adopted for preparing the business case and its independent auditing. It should also include advice on whether a cost benefit analysis should form part of the case or a financial return on investment analysis or a social return on investment and the length of the period of assessment should be included. There should also be an impact (or similar) assessment on the implications for inter-agency working.

3. Do you agree that the case for putting in place a single employer should be assessed using the same process as for a transfer of governance?

No the process for putting in place a single employer should be separated out from the consultation and dealt with, as and when, the proposed reconfiguration of governance arrangements are established (assuming that the current consultation outcome deems this a good idea in principle).

The HRM issues involved are extremely convoluted, some will be capable of imposition but some will need negotiations. The latter will be expedited if the will of parliament and the will of the public about the end objective is known and the new arrangements are becoming much clearer. This does not mean the process for addressing the HRM issues can't be started until after the reconfiguration is known – clearly it can run in parallel (and much depends on which aspects require primary legislation which aspects require secondary legislation and which aspects require other non-legislative changes).

A recent attempt to restructure and reconfigure Fire and Rescue Services in the Republic of Ireland offers some relevant salutary lessons. In the Republic, following the recession and the urgent need to reform public services identified by the OECD, rapid progress from 2011-2012 on Fire and Rescue Services was brought to a juddering halt as a result of the HRM issues and little progress has been made since. Similarly, the HRM issues in bringing Police and Fire Services together in England are far more complex, intractable and significant than those faced in the Fire and Rescue Service in the Republic.

Similar lessons are also available within England, from the experience of the creation of the National Offender Management Service which brought the prison services and the probation services together. This is now and was at the time, commonly accepted as a very inefficient and drawn out process. In particular, it was over seen for its first 3 years by the Home Office but then had to be transferred to the newly created Ministry of Justice.

4. **What benefits do you think could be achieved from empowering Police and Crime Commissioners to create a single employer for police and fire and rescue personnel, whilst retaining separate frontline services, where a local case has been made to do so?**

There are two things with an implied but unnecessary and unjustifiable link in this question. The two questions are

- What benefits could be achieved from a single employer – or more neutrally phrased Is a single employer a good initiative? and
- Should PCC be empowered to create a single employer or (more neutrally), is the power to employ a single employer best vested in the Police and Crime Commissioner?

The first part of the question focusses on what benefits (not costs and benefits) could (potentially) be achieved by creating a single employer for constabulary and fire and rescue service personnel. Clearly a balanced quality assured cost benefit analysis is more appropriate than a request to identify benefits only. This question is also complicated by the caveat – ‘where a local case has been made’ – this latter caveat assumes an appropriate method or process is being proposed for compiling or making a local case – which the current proposal is not (see answer to question 2 above)

Our response to the second part of this question or the reframing of the question under the second bullet point above can be deduced from our response to question 3 above. In simple terms no we do not believe that the PCC is the best person or institution in which to vest such a power.

5. Do you agree that the requirement for a chief officer to have previously held the office of constable should be removed for senior fire officers?

The requirement for all constabulary police officers to have held the rank of constable is outdated and inefficient – it ignores the need to bring experienced external personnel (management and investigatory) into the police service at an appropriate level and rank. It is an anachronism within the police service that should properly have been addressed many years ago. It is also an issue that should have been addressed after the publication of the 2010 Neyroud Review of Police Leadership and Training by the Home Office.

It would clearly be inappropriate (undermining authority, personally demeaning and culturally giving an inappropriate organisational signal) to apply this outdated anachronism to the FRS.

6. How do you think the requirement for a Police and Crime Commissioner to have access to an informed, independent assessment of the operational performance of the fire service should best be met?

Firstly the introductory passage above question 6 states “the government is interested in views on how the performance of FRS could be better reviewed and supported under PCCs”. This is an important question whether FRS are transferred to PCCs or not.

Academic research including our own has highlighted inadequacies in the current public assurance regime and the operational and financial performance assessments of FRS. Recent research for the NAO also showed that the current regime is not only inadequate, but that public assurance is deteriorating and the risks of the service achieving Value for Money are rising – this performance also compares unfavourably with the recently reformed arrangements for FRS in Scotland (See The Scottish Fire and Rescue Service, from Audit Scotland 2015).

It should be for the public and the determining authority or governing body on behalf of the public, to have access to an independent assessment of the operational performance of the fire service not just the PCC.

England is unusual in having no independent specialised Fire Inspectorate (unlike Scotland, and most continental countries) to have recourse to in these circumstances. The HMFI role was initially amalgamated into the AC in 2007 and when the AC was abolished it was not replaced as an independent inspectorate. In parallel however in 2007 a Chief Fire and Rescue Advisor position was created within the Department of Communities and Local Government which is now filled by Peter Holland. This is a Civil Servant position reporting to government (not

parliament or the public as with a HMI or regulators such as the NAO) and the post is subject to line management and civil service commission codes (the Wikipedia entry commonly quoted on this position by the press is inaccurate).

As we say in response to question 2 above, independent assessors should be validated or accredited and be taken from an approved list accredited for the purpose. This list should be open to anyone (individuals and institutions) and overseen by an appropriate independent organisation such as the public appointments commission or the National Audit Office or jointly overseen by Her Majesty's Inspectorate of Constabulary and Her Majesty's Fire Service Inspectorate in Scotland .

7. Do you agree that where a Police and Crime Commissioner takes responsibility for a fire and rescue service, the Police and Crime Panel should have its remit extended to scrutinise decision making in relation to fire services?

Other than in London, where alternative arrangements are in place through the GLA, Police and Crime Panels are one of the weakest examples of scrutiny currently operating within the governance of locally delivered public services in the UK. As currently established the PCC has too much influence on the composition of the Police and Crime Panels and the Police and Crime Panels themselves are not subjected to any meaningfully robust or quality assured, independent appraisal or scrutiny.

This question is almost rhetorical – if PCCs widen their remit then clearly PCP's should widen their remit – but the real issue is not only whether the remit is widened but how the overall internal and external scrutiny function should be strengthened in order for it to become effective and fit for purpose. This will require far more than widening the remit of the PCP (or merely changing its name).

However in our view the opportunity should be taken to fundamentally review and strengthen the operation and scrutiny arrangements of the governance framework and the assurance mechanisms that scrutinise the current PCCs whether or not they become responsible for a wider remit.

8. Do you think that where a Police and Crime Commissioner takes responsibility for a fire and rescue service, the Police and Crime Panel should have its membership refreshed to include experts in fire and rescue matters?

Members of the PCP are supposed to be knowledgeable in criminal justice and civil disobedience and anti-social behaviour issues. While there is clearly an overlap in the range of incidents and issues both services address, there are a number of

issues, strategic, operational and organisational that are specific to FRS. If the PCP is to be effective for both services it would clearly benefit from the addition of some specialist experts with knowledge of FRS.

9. Do you think that where a Police and Crime Commissioner puts in place a single employer for fire and rescue and police services personnel, complaints and conduct matters concerning fire should be treated in the same way as complaints and conduct matters concerning the police?

On the face of this appears simple suggestion of fairness and with the vague possibility of capturing some economy of scales. It is anything but simplistic and any long-term potential economies of scale (even if they were realised) would be more than out-weighed by the considerable transition costs inevitably involved.

The complaints and conduct processes, systems and sanctions for the two services have developed in very diverse ways and the issues and priorities of both of the regimes and the individual organisations within them, differ considerably. All of these organisations and regimes would have to change significantly (nature and purpose, governance arrangements, auditing and accountability, personnel, information technology, training and education etc.). There would be considerable direct and indirect costs in both the short term and the long term (e.g. the Independent Police Complaints Commission for example has no professionals competent at conducting fire investigations), - the rights and responsibilities in complaints and conduct issues, and the nature and scale of the case work in either sector, also differs considerably.

There is no evidence in either the consultation documents or the reports that have been put forward to provide the evidence for the proposals, of the benefits or potential benefits arising from aligning (still less integrating) the treatment of complaints and conduct matters, yet there are clear and significant potential costs.

10. Do you agree that Police and Crime Commissioners should be represented on fire and rescue authorities in areas where wider governance changes do not take place?

We do agree that PCC could usefully be represented on FRA and take an active part in FRA deliberations. We do not know of any FRA that has declined to discuss individual issues of mutual concern, nor closer cooperation generally with any PCC. In our view they could be useful non-voting members with the right of attendance and the right to be heard, although matters of political balance and representation, current fiduciary duties and scrutiny arrangements in local authorities complicate the issues of voting rights. In our view these should not be extended to PCC representatives.

This proposal also raises the issue of ambulance trust representation on FRAs.

Ambulance Trust operations have increasingly more in common and more overlap with FRAs than the police, yet the consultation is silent on any potential initiatives involving ambulance trust boards.

In determining whether this suggestion for additional representation should be pursued it is worth remembering that both the Police and the Fire and Rescue Service (and the health service) are all currently represented in the three relevant multi-agency collaborations extant at local community level, namely the Local Resilience forum, the Community Safety Partnership and the Health and Wellbeing Boards. These provide ample opportunities for discussions of mutual interest.

11. Do you agree that the London Fire and Emergency Planning Authority should be abolished and direct responsibility for fire and rescue transferred to the Mayor of London?

In London the governance and in particular the scrutiny arrangements are more developed and sophisticated than elsewhere in England and Wales (although clearer more effective arrangements have recently be put in place in Scotland). Although it is covering a huge population and hinterland, London in our view is clearly best served by a single Fire and Rescue Service, as is the case in Scotland and Northern Ireland.

The recent experience with the issuing of multiple directions to LFEPA suggests the system is becoming dysfunctional and over-politicised (we acknowledge politics has a place and key services such as FRS must be democratically accountable). However the governance arrangements and relationships between the Mayor, the GLA and the London Boroughs are established and mature, while LFEPA appears increasingly to be semi-detached from multi agency service delivery.

12. In the event that the London Fire and Emergency Planning Authority is abolished, how should responsibility for fire and rescue be incorporated into the mayoral structure?

If the responsibility for the LFB is transferred, the consultation suggests three potential alternatives. Of these alternatives we consider that a new mayoral agency for fire and rescue services should be created. A single agency with the office for police and crime would replicate a number of the 'integration' issues highlighted elsewhere in this response, and the London Assembly is a scrutiny body rather than a strategic delivery body. In the circumstances a new agency appears the most appropriate arrangement to establish to perform the functions and responsibilities envisaged.

In the circumstances the pan-London resilience and emergency planning function

that the LFB performs, the day-to day operational responsibility for the London Resilience Team and the support of the work of the London Resilience Forum and the delivery of the Mayors responsibilities for resilience, should all be transferred to the new agency. These responsibilities are usually dispensed by Chief Fire Officers or senior assistants, rather than politicians. There is no suggestion that they are being inefficiently or ineffectively performed and their retention in the new agency should be the starting position for future negotiations within the London Resilience Community of Interest referred to in the consultation.

13. To what extent do you think there are implications for local resilience (preparedness, response and recovery) in areas where the Police and Crime Commissioner will have responsibility for police and fire?

There are clearly implications for local resilience with the introduction of PCCs, no matter the extent of their responsibility, coverage or the practical extent of their involvement or their desire to get involved. There will need to be clear formal demarcations to avoid operational interference and role confusion.

In an ongoing emergency (response stage) it is relatively easy to both observe and enforce role demarcation and responsibilities, and under current legislation incident command and service roles and responsibilities are clear, robust and extensively formalised. In the planning and preparedness and the recovery stages, there is less clarity and differing (but overlapping) roles for professional and democratic accountability, strategic and operational planning and short and long-term resource allocation and decision making.

The current efficient and effective operation of these structures and arrangements (and consequential efficiency with which the emergency services tackle disasters and emergencies) is partially due to their de-politicisation (or relative de-politicisation). Resilience Forums and previous emergency planning partnerships have always been dominated by the Chief Officers of the three blue light services and the Chief Executives of the Local Authorities – not the Chairs of their respective governing bodies. As far as possible, they should be ‘guaranteed’ to remain so.

Accountability, transparency and scrutiny of the response to disasters and emergencies by the emergency services (through public inquiries, coroner’s courts or judicial review) has, historically, always been largely retrospective and ex-post facto (and remains so), for very good reasons – contemporary, real-time scrutiny runs the risk of interference in operational efficiency during emergency response and would also run the risk of leading to perverse outcomes and unintended consequences as a result of operating under the additional pressure of an emergency environment. It also confuses responsibilities at times when clarity of responsibility and command are essential.

14. To what extent do you think there are implications for resilience responsibilities in areas where an elected metro mayor is also the Police and Crime Commissioner and responsible for the fire and rescue service?

The implications are largely similar to the implications responded to in the question above. Democratic accountability is however further clarified in these particular circumstance (as to some extent is short and long term planning). Although there is a greater temptation for politicization, counter intuitively, because there are fewer democratic mandates involved in the metro mayor scenario, there is a simpler opportunity to demarcate and delineate when and where political leadership is required, and where and when professional or operational leadership is more appropriate.

15. Are there are any other views or comments that you would like to add in relation to emergency services collaboration that were not covered by the other questions in this consultation?

The consultation document sometimes refers to economy, efficiency and effectiveness (the previous Audit Commission definition) and sometimes it refers to just efficiency and effectiveness and sometimes it combines all three with and without public 'safety'. The latter most notable on page 10 when the Home Secretary/Secretary of State for Communities and Local Government can decide whether a governance change was in the interests of economy, efficiency and effectiveness or public safety. Economy, efficiency and effectiveness should have been (and should be) used consistently throughout the document and neither it nor public safety should be compromised.

The consultation is a missed opportunity for encouraging the economic, efficient and effectiveness of services and for encouraging service improvement. The Operational Assessment and FPC (referred to on page 15 as 'needing strengthening') has recently been completed for all 46 FRS. It is widely regarded within the service and in the research community as being partial, voluntary, subject to gaming and clearly not fit for this purpose. It should be replaced by a new framework regime that encourages service improvement (which the OpA and FCP does to an extent) but one which compliments this with achieving greater or appropriate financial, operational and performance assurance to the public, so that all services can demonstrate value for money. The CFOA and the LGA, implicitly acknowledge, an improved regime is required as they are looking at introducing a new improved version of the OpA FPC.

Another related opportunity missed is the need to review the ambulance performance regime and metrics and the Foundation Trust Status of the Trusts. A greater and more significant number of Ambulance trusts have not achieved foundation status which has led to a two tier approach in this consultation towards the governance changes.

The nature and range of the proposed changes are clearly too large, too complex and too significant to be managed in a realistic transformation programme. The lessons from Scotland and Ireland, together with those from bringing prisons and probation together under NOMS should be learnt. Effective Programme and project management via PRINCE2 principles will not be adequate or sufficient – even if the skills, will and wherewithal to use these systems and processes exist.

We have made indirect reference to the issues of public assurance and value for money in our responses above, but we would wish to see these issues given considerably more prominence in the process than is currently the case.

Finally, we believe that this proposed consultation process should have acknowledged the recent Audit Scotland Study on the Fire and Rescue Service and the ongoing NAO study on the financial sustainability of fire and rescue services in England.

16. Do you think these proposals would have any effect on equalities issues?

When dealing with organisational changes of the scale, nature and extent of the potential changes in this consultation (particularly the HRM issues) it is inevitable that there will be an effect on equality issues. The proposals are so high level, and unrefined as to be unable to identify these with any confidence at this stage.

Corresponding Author

Peter Murphy
Director of the International Centre for Public Services Management
Nottingham Business School, Nottingham Trent University, Newton Building, Burton Street, Nottingham. NG1 4BU.

Peter.murphy@ntu.ac.uk

Tel 0115 848 8092 or 0777 5877 949